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MAR 12 2004

In re Application of : **OFFICE OF PETITIONS**
Burks, et al. :
Filed: March 11, 1999 : ON PETITION
Application No. 09/267,719 :
Docket No.: ARK00898103A :
:

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2004, to revive the above-identified application.

This application became abandoned April 23, 2001 for failure to timely file a proper response to the Office communication mailed March 22, 2001. The Office communication set a one (1) month period of time for response. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed March 28, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Office communication mailed March 21, 2001 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing

of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See, Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

This application file is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.


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